

AMENDED IN SENATE APRIL 14, 2009

AMENDED IN SENATE APRIL 2, 2009

SENATE BILL

No. 774

Introduced by Senator Ashburn

February 27, 2009

An act to add Chapter 3.5 (commencing with Section 16250) to Part 4 of Division 9 of the Welfare and Institutions Code, relating to children's services.

LEGISLATIVE COUNSEL'S DIGEST

SB 774, as amended, Ashburn. Social workers: ~~background checks.~~ *criminal history.*

Existing law requires the counties, with the assistance of the State Department of Social Services, to provide child welfare services, including emergency response, foster care placement, adoption services, and family maintenance and reunification.

This bill would require a county, before hiring an applicant for a position as a county child protective service social worker who will be assigned emergency response, family maintenance, family reunification, permanent placement, or adoption responsibilities, to secure from an appropriate law enforcement agency a criminal ~~record~~ *history* to determine if the applicant has ever been convicted of a crime ~~other than a minor traffic violation or arrested for~~ specified crimes. The bill would prohibit the county from employing the applicant under prescribed circumstances. The bill would allow the county to require the applicant to pay any fees charged by the law enforcement agency for the processing of the criminal ~~background check~~ *history* and would prohibit the county from hiring a person who had been convicted of a crime, ~~other than a minor traffic violation~~ *specified crimes*.

Because this bill would require the counties to take additional steps to hire social workers, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.5 (commencing with Section 16250) is added to Part 4 of Division 9 of the Welfare and Institutions Code, to read:

CHAPTER 3.5. CHILD WELFARE EMPLOYEES

16250. (a) Before hiring a person for a position as a county child protective service social worker who will be assigned emergency response, family maintenance, family reunification, permanent placement, or adoption responsibilities, the county shall secure from an appropriate law enforcement agency a criminal ~~record history~~ to determine if the applicant has ever been ~~convicted of a crime, other than a minor traffic violation, or arrested for any crime specified in subdivision (c) of Section 290, or for violating Section 245 or 273.5, convicted of a crime specified in Section 245, 273.5, or 290, subdivision (b) of Section 273a, or, prior to January 1, 1994, paragraph (2) of Section 273a, of the Penal Code.~~ The criminal history information shall include the applicant's full criminal record, if any, and subsequent arrest information pursuant to Section 11105.2 of the Penal Code.

(b) The county may require the applicant to pay any fees charged by the law enforcement agency for the processing of the criminal ~~background check history~~.

16251. (a) If the county finds, through the criminal ~~background check history~~ required by Section 16250, that the applicant has been convicted of a crime, ~~other than a minor traffic violation, specified in subdivision (a) of Section 16250,~~ the applicant shall not be hired.

1 (b) If the county finds that the applicant is awaiting trial for a
2 crime, ~~other than a minor traffic violation, specified in subdivision~~
3 ~~(a) of Section 16250~~, the county may cease processing the
4 application until the conclusion of the trial.

5 (c) If the county determines, after hiring an applicant, that the
6 person has been convicted of a crime ~~other than a minor traffic~~
7 ~~violation, specified in subdivision (a) of Section 16250~~, the county
8 shall terminate the employee.

9 16252. For purposes of this chapter, “conviction” means a plea
10 or verdict of guilty or a conviction following a plea of nolo
11 contendere in any court in this or another state. A conviction has
12 occurred when the time for appeal has elapsed, when the judgment
13 of conviction has been affirmed on appeal, or when an order
14 granting probation is made suspending the imposition of sentence,
15 notwithstanding a subsequent order pursuant to Sections 1203.4
16 and 1203.4a of the Penal Code permitting the person to withdraw
17 his or her plea of guilty and to enter a plea of not guilty, or setting
18 aside the verdict of guilty, or dismissing the accusation,
19 information, or indictment.

20 16253. An applicant who is denied a position pursuant to
21 Section 16251 shall be entitled to receive a copy of the criminal
22 ~~record~~ history report upon written request.

23 SEC. 2. No reimbursement is required by this act pursuant to
24 Section 6 of Article XIII B of the California Constitution because
25 a local agency or school district has the authority to levy service
26 charges, fees, or assessments sufficient to pay for the program or
27 level of service mandated by this act, within the meaning of Section
28 17556 of the Government Code.